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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Revision No. 4641 of 2006
Date of decision: 5.11.2007

Punjab State through Collector and others ...Petitioners

Versus

Krishan Kant Aggarwal(died) through L.Rs. ...Respondent

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CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Mr. Ram Lal Gupta, Additional Advocate General, Punjab
for the petitioners.

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RAJESH BINDAL, J.

The challenge in the present petition is to the order passed by the learned Additional District Judge, Amritsar whereby application filed under Section 5 of the Limitation Act for condonation of delay of 11 days in filing of the appeal against the judgment and decree dated April 22, 2005 passed by Additional Civil Judge (Senior Division), Amritsar was dismissed and consequently, the appeal was also dismissed.

Learned counsel for the petitioners submitted that the delay in the present case occurred on account of impersonal attitude in the office while dealing with the file and the same being not substantial should have been condoned by the learned Court below. Further the observation of the learned Court below that each and every day's delay has not been explained is not in conformity with the law laid down by Hon'ble the Supreme Court and this Court. The prayer made is for acceptance of the petition, consequently acceptance of the application for condonation of delay and direction to the learned Lower Appellate Court for decision of the appeal filed by the petitioners on merits.

From the facts on record, it is evident that the judgment and decree was passed against the petitioners on April 22, 2005. The certified

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copy thereof was applied on April 27, 2005, which was prepared and delivered on May 7, 2005. The appeal was filed on July 28, 2005 after the delay of 11 days. The ground taken is the procedural delay at various places in the office, which according to the learned Court below is not sufficient reason as each day's delay has not been explained.

Hon'ble the Supreme Court while dealing with an application for condonation of delay filed by the State in **State of Haryana Vs. Chandra Mani AIR 1996 Supreme Court, 1623** observed as under:-

> "When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay intentional or otherwise is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the Governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process. The Court should decide the matters on merits unless the case is hopelessly without merit.

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Equally, the State cannot be put on the same footing as an individual. The individual would always be quick in taking the decision whether he would pursue the remedy by way of an appeal or application since he is a person legally injured while State is an impersonal machinery working through its officers or servants."

The same view was expressed by Hon'ble the Supreme Court in **State of Nagaland Vs. Lipok AO and others** (2005) 3 Supreme Court Cases 752.

Though in a case where the delay is substantial, certainly the litigant is required to explain the same in much detail, however, keeping in view the fact that delay in the present case in filing the appeal is merely 11 days, comparatively a lenient view was required to be taken keeping in view the fact that files in the Government Departments move at a slow speed. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.

Accordingly, I find merit in the present petition and the same is accepted. The delay of 11 days in filing the appeal before the learned Lower Appellate Court is condoned. Learned Lower Appellate Court is directed to hear the appeal filed by the petitioners on merits.

The parties are directed to appear before the Learned Lower Appellate Court on December 12, 2007. The unrepresented parties may be summoned for the date to be fixed by the Court below.

November 05, 2007 **(Rajesh Bindal)**
Pka **Judge**